

Application No. 09/988,285

Art Unit

Response to Office Action dated August 8, 2003

October 14, 2003

**REMARKS**

Claims 1-22 and 30-34 are pending in the present application.

Before responding to the requirement for election of species, Applicants would like to clarify the nature of the claimed invention. The present invention is directed to a pharmaceutical composition and method of use which utilizes two essential components: (1) a bioenhancer, which comprises an inhibitor of BCRP, and (2) a pharmaceutically active compound. With this in mind, Applicants will respond to the election of species.

Beginning at the bottom of page 2 of the Office Action, the Examiner has required an election to one of seven different "species" of inhibitors of BCRP (Species A-G). In response to this requirement, Applicant elects the "species" G (XR 9576). It is noted that this species falls within the group "A", which in fact is a "sub-genus" of acridine derivatives which includes species G. Thus, Applicants elect both groups A and G.

Beginning at the bottom of page 3 of the Office Action, the Examiner has required election of a single disclosed species of "bioenhancers" (Species A and B). Since BCRP inhibitors are properly termed as bioenhancers, and FTC is a BCRP inhibitor (see page 8, lines 19-23; page 9, lines 24-26; and page 10, lines 1-16 of the specification), it would seem that the two items of the second group would be more properly grouped with the first group. Further, this group

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also lists a subgenus, mycotoxin, and a species that is a mycotoxin-FTC. In view of the above, it is believed that these species should actually be part of "inhibitors of BCRP" identified above. Therefore, the Examiner is requested to refer to the above-election for Applicants' single disclosed species of "bioenhancers".

At the bottom of page 4 of the Office Action, the Examiner has required election between a plurality of species of the "pharmaceutically active compound" (Species A-L). It is noted that the Examiner has listed several subgenuses and several species in items A through L, seemingly for further restriction. Item B lists camptothecin derivatives, and items E through J list specific camptothecin derivative species (see page 6, lines 22-26 of the specification). Applicants hereby elect item B directed to camptothecin derivatives for proceeding with prosecution and elect topotecan as the single species for initial examination. Should only one species election be required, Applicants elect topotecan.

In summary, applicants hereby elect as a single disclosed "species" the combined use of GF120918 and topotecan in pharmaceutical compositions and methods of use. It is believed that at least claims 1-3, 5-6, 13, 15-17, 22 and 30-34 read on the elected species. Once this elected species is determined to be allowable, the Examiner is requested

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to extend his search to all of the claimed species, including the generic claims.

The Examiner is advised that an Information Disclosure Statement was filed in the USPTO on December 18, 2003, and he is requested to enter this IDS when preparing his first action on the merits.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gerald M. Murphy, Jr. (Reg. No. 28,977) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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